

STATE OF MICHIGAN
COURT OF APPEALS

LINDA HAND,

Plaintiff-Appellee,

v

THE FRIENDS OF ALFRED P. SLOAN
MUSEUM,

Defendant-Appellant.

UNPUBLISHED

March 6, 2001

No. 215682

Genesee Circuit Court

LC No. 93-025532 NO

Before: Sawyer, P.J., and Jansen and Gage, JJ.

PER CURIAM.

In this premises liability action, defendant, after a jury trial, appeals as of right from a judgment in favor of plaintiff. In June 1993, plaintiff attended the annual Summer Auto Fair (Fair) in Flint, where she caught her foot in a hole and fell, breaking her left ankle. Plaintiff at trial presented evidence that the injury severely impacted her personal relationships, social activities and ability to work. The jury found defendant liable for negligent maintenance of the premises where the Fair occurred and on which plaintiff was injured. We affirm.

Defendant contends that the trial court erred in denying its motion for judgment notwithstanding the verdict (JNOV). Defendant argues that the jury's verdict finding defendant liable for plaintiff's injuries must be reversed because uncontradicted trial evidence demonstrated that defendant had no duty to protect plaintiff while she attended the Fair. Defendant asserts that at the time plaintiff tripped, it neither directly nor indirectly possessed or controlled the land where the fair occurred, and that a deficiency in the evidence precluded the jury from justifiably imputing liability from the 1993 Summer Fair Committee to defendant.

"A motion for JNOV should be granted only when there was insufficient evidence presented to create an issue for the jury." *Pontiac Sch Dist v Miller, Canfield, Paddock & Stone*, 221 Mich App 602, 612; 563 NW2d 693 (1997). The evidence and all legitimate inferences arising therefrom must be viewed in the light most favorable to the nonmoving party. *Forge v Smith*, 458 Mich 198, 204; 580 NW2d 876 (1998).

The elements of a negligence cause of action are (1) that the defendant owed a duty to the plaintiff, (2) that the defendant breached that duty, (3) causation and (4) damages. *Ellsworth v Hotel Corp of America*, 236 Mich App 185, 194; 600 NW2d 129 (1999). The only element at issue in defendant's appeal is whether sufficient evidence supported the jury's conclusion that defendant owed plaintiff a duty.

A special relationship exists between an occupier of land and an invitee that gives rise to the occupier's duty to protect his invitee. *Williams v Cunningham Drug Stores, Inc*, 429 Mich 495, 499; 418 NW2d 381 (1988). Whether defendant was plaintiff's "invitor" as the "land occupier" depends on whether defendant had possession and control of the premises on which the 1993 Fair occurred at the time plaintiff invitee incurred her injuries. *Kubczak v Chemical Bank & Trust Co*, 456 Mich 653, 660; 575 NW2d 745 (1998).

Viewing the evidence in the light most favorable to plaintiff, sufficient evidence was presented from which the jury properly could have found that defendant in 1993 had a relationship with plaintiff, giving rise to a duty to plaintiff. *Forge, supra*; *Pontiac Sch Dist, supra*. Earlier in this suit, the Board of Education for the School District of the City of Flint (Board) provided plaintiff with information via interrogatories. At the time of the 1993 Fair, and when the Board received the interrogatories, the Board owned the Sloan Museum. The responses to plaintiff's interrogatories were completed by Jeanette Sanders, then the Board's Director of Risk Management and Benefits. Sanders testified at trial that she met with Steve Germann, Director of the Sloan Museum and defendant's Executive Vice President since 1989. Sanders recounted that she and Germann reviewed the interrogatories together, and that Germann provided Sanders with the relevant responsive information. According to Sanders, German advised her that the Sloan Summer Fair Committee, which sponsored the annual fair, constituted a subcommittee of defendant. Sanders incorporated this information in the response to plaintiff's interrogatories. Germann's testimony indicated that the Summer Fair Committee controlled the fair's location, subject matter and participants.

Additionally, the Fair's income and expenses appeared on the annual audited financial statement of defendant. Defendant also participated in the fair by acting as a food vendor, organizing all other food vendors and receiving a portion of these vendors' revenues, and publishing the fair's annual program. Defendant operated a membership drive booth at the fair, and defendant's members were exempt from the fair's admission fee. Furthermore, defendant, the Sloan museum's primary fundraiser, relied heavily on fair profits to fund the Sloan Museum.

In light of this evidence, and the reasonable inferences arising therefrom, reflecting defendant's possession and control of the Fair site, we conclude that the trial court properly denied defendant's JNOV motion.¹

Affirmed.

/s/ David H. Sawyer
/s/ Kathleen Jansen
/s/ Hilda R. Gage

¹ To the extent that defendant suggests that, as an alternative to reversal of the trial court's denial of its motion for JNOV, it should be granted a new trial, we observe that defendant presents no argument regarding this contention. To properly present an appeal, an appellant must approximately argue the issues identified in its statement of the questions involved. An appellant may not merely announce its position and leave it to this Court to discover and rationalize the basis for its claims. Arguments without supporting citation are considered abandoned on appeal. *Check Reporting Services, Inc v Michigan Nat Bank-Lansing*, 191 Mich App 614, 628; 478 NW2d 893 (1991). Therefore, we decline to address this issue.